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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 NADENE SAMMANN, *et al.*,

10 Plaintiffs,

11 v.

12 ESTATE OF ELIZABETH SAMMANN,
13 *et al.*,

14 Defendants.

15 Case No. C05-0929L

16 ORDER DENYING MOTION
17 FOR ENLARGEMENT OF
18 TIME TO SERVE DEFENDANTS
19 AND FOR COSTS

20 This matter comes before the Court on plaintiffs' motion for enlargement of time
21 to serve defendants (Dkt. #34) and on plaintiffs' motion to recover the costs of service
22 (Dkt. #45).

23 Plaintiffs request "an enlargement of time to serve the defendants and file proof of
24 service." Plaintiffs' Motion for Enlargement at p. 1. However, defendants' counsel
25 completed a waiver of service on November 14, 2005 "to relieve the court from the
26 distraction of continued motions to address service of process by the Plaintiffs."¹

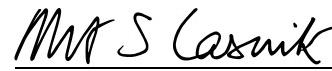
27
28 ¹ Plaintiffs previously filed a motion for an extension of time to serve, which was
29 granted, and a motion to serve by publication, which was denied.
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1 Declaration of Alan Funk (Dkt. #37) at p. 1. Plaintiffs object to the waiver of service and
2 argue that they are entitled to a full 120 days to accomplish service. The issue is moot
3 now that defendants have completed the waiver of service.

4 Plaintiffs have also filed a motion to recover their costs of service. They allege
5 that on September 4, 2005, they sent defendants a box of documents, including a waiver
6 of service, but defendants refused the box without opening it. Plaintiffs allege that if
7 defendants had completed the waiver, they would not have been forced to expend over
8 \$800.00 in service fees. Plaintiffs, however, have filed proof that they served defendants
9 on September 1, 2005, before they sent the waiver. They cannot recover the costs of
10 service incurred before the waiver was sent. Furthermore, plaintiffs cannot recover the
11 costs of their subsequent unnecessary and misguided attempts at service, including
12 service by publication which was not authorized by the Court or the Federal Rules of
13 Civil Procedure.

14 Accordingly, plaintiffs' motion for enlargement of time to serve defendants (Dkt.
15 #34) and plaintiffs' motion to recover the costs of service (Dkt. #45) are DENIED.
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17 DATED this 5th day of December, 2005.
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20 Robert S. Lasnik
21 United States District Judge
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26 ORDER DENYING MOTION FOR ENLARGEMENT
OF TIME TO SERVE DEFENDANTS AND FOR COSTS - 2